MONTANA LEGISLATIVE HISTORY

Chapter 401 ~~19~~ 2001

Bill H _____ S 185 Original bill & history Y C

H. Committee on State Admin		S. Committee on State Admin	
Hearing Date(s) 3/1	Y C	Hearing Date(s) 1/17	Y C
3/22	Y C	1/19	Y C
_____	C	_____	C
_____	C	_____	C
Date Out _____	C		

Did this bill originate in an interim committee? ____Yes Y No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

SB 185 Introduced by Cobb *LC0919 Drafter: Petesch*

Revise Campaign Finance and Reporting Law

1/04	Introduced		
1/04	First Reading		
1/04	Referred to State Administration		
1/17	Hearing		
1/20	Committee Executive Action--Bill Passed	8	0
1/20	Committee Report--Bill Passed		
1/23	2nd Reading Passed on Voice Vote	50	0
1/24	3rd Reading Passed	50	0
	Transmitted to House		
2/01	Referred to State Administration		
3/01	Hearing		
3/22	Committee Executive Action--Bill Concurred as Amended	15	1
3/23	Committee Report--Bill Concurred as Amended		
3/29	2nd Reading Concurred	96	4
3/31	3rd Reading Concurred	95	5
	Returned to Senate with Amendments		
4/03	2nd Reading House Amendments Concurred on Voice Vote	49	0
4/04	3rd Reading Passed as Amended by House	47	1
4/04	Sent to Enrolling		
4/05	Reconsidered Previous Action; Remains in 3rd Reading Process		
4/05	Taken from 3rd Reading; Placed on 2nd Reading		
4/05	2nd Reading House Amendments Not Concurred on Voice Vote	47	0
4/06	Free Conference Committee Appointed		
4/06	Free Conference Committee Appointed		
4/09	Hearing		
4/09	Free Conference Committee Report Received		
4/09	Free Conference Committee Report Received		
4/11	2nd Reading Free Conference Committee Report Adopted on Voice Vote	48	0
4/12	3rd Reading Free Conference Committee Report Adopted	49	1
4/18	2nd Reading Free Conference Committee Report Adopted	100	0
4/19	3rd Reading Free Conference Committee Report Adopted	98	1
4/19	Sent to Enrolling		
4/20	Returned from Enrolling		
4/20	Signed by President		
4/21	Signed by Speaker		
4/21	Transmitted to Governor		
4/28	Signed by Governor		
4/28	Chapter Number Assigned		
	Chapter Number 401		
	Effective Date: 10/01/2001 - All Sections		

SB 186 Introduced by Cobb *LC0940 Drafter: Sternberg*

Clarify Terms of Resident Temporary Fishing License

1/04	Introduced
1/04	First Reading
1/04	Referred to Fish and Game
1/05	Fiscal Note Requested
1/11	Fiscal Note Received
1/12	Fiscal Note Printed
1/16	Hearing
1/16	Tabled in Committee
2/23	Missed Deadline for General Bill Transmittal

Senate BILL NO. 185

INTRODUCED BY Cobb
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ELECTIONS AND CAMPAIGN FINANCE; REVISING THE DUTIES OF THE COMMISSIONER OF POLITICAL PRACTICES; REMOVING REFERENCES TO THE COMMISSIONER OF POLITICAL PRACTICES' AUTHORITY TO REGULATE CONTESTS FOR NOMINATION TO PUBLIC OFFICE; REMOVING REFERENCES TO PRIMARY POLITICAL COMMITTEES; CLARIFYING REPORTING REQUIREMENTS FOR BALLOT ISSUES; CLARIFYING THE RESTRICTIONS ON EMPLOYERS; REMOVING CRIMINAL PENALTIES FOR UNLAWFUL CONTRIBUTIONS; CLARIFYING THAT ISSUANCE OF AN ORDER OF NONCOMPLIANCE IS NOT A PREREQUISITE FOR OTHER ACTION; CONFORMING CONTRIBUTION REPORTING REQUIREMENTS TO CURRENT LIMITS; REVISING DISTANCE RESTRICTIONS ON EXIT POLLING; ELIMINATING THE POLITICAL CRIMINAL LIBEL LAW; AMENDING SECTIONS 13-1-101, 13-35-211, 13-35-226, 13-37-111, 13-37-112, 13-37-113, 13-37-114, 13-37-117, 13-37-118, 13-37-121, 13-37-124, 13-37-125, 13-37-126, 13-37-127, 13-37-128, 13-37-226, AND 13-37-228, MCA; AND REPEALING SECTION 13-35-234, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means a qualified elector whose name is on the active list.

(2) "Active list" means a list of active electors maintained by an election administrator pursuant to 13-2-219.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a completed voter registration card submitted to the election administrator and subject to confirmation, as provided in 13-2-207.

(5) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; and

(c) an officeholder who is the subject of a recall election.

(6) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees~~, as long as the organization is not a primary political committee~~; or

(iv) filing fees paid by the candidate.

(7) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(8) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard

to school elections, the term means the school district clerk.

(9) "Elector" means an individual qualified and registered to vote under state law.

(10) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (6);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees~~, as long as the organization is not a primary political committee~~.

(11) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(12) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(13) "Inactive elector" means an individual whose name is placed on an inactive list.

(14) "Inactive list" means a list of inactive electors maintained by an election administrator pursuant to 13-2-219.

(15) "Individual" means a human being.

(16) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional

amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35~~, 36, or~~ and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes ~~an~~ a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

(17) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (5).

(18) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(19) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(20) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(21) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(22) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(23) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(24) "Voting machine or device" means any equipment used to record, tabulate, or in any manner

process the vote of an elector."

Section 2. Section 13-35-211, MCA, is amended to read:

"13-35-211. Electioneering -- soliciting information from electors. (1) ~~No~~ A person may not do any electioneering on election day within any polling place or any building in which an election is being held or within ~~200~~ 100 feet ~~thereof~~ of the entrances to the polling place or building, which aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) ~~No~~ A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia which is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.

(3) ~~No~~ A person within a polling place or any building in which an election is being held may not solicit from an elector, before or after ~~he~~ the elector has marked ~~his~~ a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue."

Section 3. Section 13-35-226, MCA, is amended to read:

"13-35-226. Unlawful acts of employers and employees -- definitions. (1) It is unlawful for any employer, in paying employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to influence the political opinions or actions of the employees.

(2) It is unlawful for an employer to exhibit in a place where the employer's workers or employees may be working any handbill or placard containing:

(a) any threat, promise, notice, or information that, in case any particular ticket or political party, organization, or candidate is elected~~,~~:

(i) work in the employer's place or establishment will cease, in whole or in part, or will be continued or increased;

(ii) the employer's place or establishment will be closed; or

(iii) the salaries or wages of the workers or employees will be reduced or increased; or

(b) other threats or promises, express or implied, intended or calculated to influence the political opinions or actions of the employer's workers or employees.

(3) This section applies to corporations, individuals, and public officers and employees.

~~(2)~~(4) A person may not ~~attempt to~~ coerce, command, or require a public employee to support or oppose any political committee, the nomination or election of any person to public office, or the passage of a ballot issue. An attempt to violate this subsection, though unsuccessful, is also a violation.

~~(3)~~(5) A public officer or public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at the place of employment. However, subject to 2-2-121, this section ~~is~~ does not ~~intended to~~ restrict the right of a public employee to express personal political views.

~~(4)~~(6) ~~Any~~ A person who violates ~~the provisions of~~ this section ~~shall be fined an amount not to exceed $1,000, be imprisoned in the county jail for a term not to exceed 6 months, or both, for each separate offense~~ is liable in a civil action authorized by 13-27-128, brought by the commissioner or a county attorney pursuant to 13-37-124 and 13-37-125.

(7) As used in this section, the following definitions apply:

(a) "Local government" has the meaning given in 2-2-144.

(b) "Public employee" means:

(i) any temporary or permanent employee of the state or any political subdivision of the state; or

(ii) any temporary or permanent employee of a local government.

(c) "Public officer" means:

(i) any elected officer or department director of the executive branch of state government as defined in 2-15-102;

(ii) any elected officer of any subdivision of the state; or

(iii) any elected officer of a local government."

Section 4. Section 13-37-111, MCA, is amended to read:

"13-37-111. Investigative powers and duties. (1) The commissioner ~~of political practices shall be~~ is responsible for investigating all of the alleged violations of the election laws contained in ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter and ~~shall~~ in conjunction with the county attorneys ~~be~~ is responsible for enforcing these election laws.

(2) The commissioner may investigate all statements filed pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter and shall ~~also~~ investigate alleged failures to file any

statement or the alleged falsification of any statement filed pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter. Upon the submission of a written complaint by any individual, the commissioner shall ~~also~~ investigate any other alleged violation of the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title, this chapter, or any rule adopted pursuant ~~thereto~~ chapter 35 of this title or this chapter.

(3) The commissioner may inspect any records, accounts, or books that must be kept pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter which are held by any political committee or candidate, ~~so~~ as long as ~~such~~ the inspection is made during reasonable office hours.

(4) The commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 5. Section 13-37-112, MCA, is amended to read:

"13-37-112. Personnel and budget. (1) The commissioner shall select an appropriate staff to enforce the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title and this chapter, and ~~he~~ may hire and fire all personnel under ~~his~~ the commissioner's supervision.

(2) The commissioner ~~shall be~~ is responsible for preparing, administering, and allocating the budget for ~~his~~ the office."

Section 6. Section 13-37-113, MCA, is amended to read:

"13-37-113. Hiring of attorneys -- prosecutions. The commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations of ~~chapters~~ chapter ~~35, 36, or 37~~ of this title or this chapter. Any ~~properly licensed~~ attorney ~~so~~ retained or hired shall exercise the powers of a special attorney general, and ~~he~~ the attorney may prosecute, subject to the control and supervision of the commissioner and the provisions of 13-37-124 and 13-37-125, any criminal or civil action arising out of a violation of any provision of ~~chapters~~ chapter 35~~, 36, or~~ 37 of this title or this chapter. All prosecutions ~~shall~~ must be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The

authority to prosecute as prescribed by this section includes the authority to:

(1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter;

(2) attend and give advice to a grand jury when cases involving criminal violations of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter are presented;

(3) draw and file indictments, informations, and criminal complaints;

(4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state or county from persons convicted of violating ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter; and

(5) do any other act necessary to successfully prosecute a violation of any provision of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 7. Section 13-37-114, MCA, is amended to read:

"**13-37-114. Rules.** The commissioner shall ~~promulgate and publish~~ adopt rules to carry out the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title and this chapter ~~and shall promulgate such rules~~ in conformance with the Montana Administrative Procedure Act."

Section 8. Section 13-37-117, MCA, is amended to read:

"**13-37-117. Commissioner to provide forms, manuals, and election laws.** (1) The commissioner shall prescribe forms for reports and other information required to be filed pursuant to chapter 35~~, 36, or 37~~ of this title and this chapter and furnish forms and appropriate information to persons required to file reports and other information.

(2) The commissioner shall prepare and publish a manual prescribing a uniform system for accounts for use by persons required to file reports pursuant to chapter 35~~, 36, or 37~~ of this title or this chapter.

(3) The commissioner shall, at the expense of the state, furnish copies of the election laws relating to penalties, campaign practices, campaign finances, and contested elections to candidates and to any other persons required to file reports or other information pursuant to chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 9. Section 13-37-118, MCA, is amended to read:

"13-37-118. Information voluntarily supplied. The commissioner shall accept and file any information voluntarily supplied that exceeds the requirements of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 10. Section 13-37-121, MCA, is amended to read:

"13-37-121. Inspection of statements and reports -- issuance of orders of noncompliance. (1) Each statement and report filed with the commissioner during an election or within 60 days after the election must be inspected within ~~10~~ 20 days after the statement or report is filed. Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not satisfied the provisions of this chapter, the commissioner shall immediately notify the person of the noncompliance. Notification by the commissioner may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the commissioner shall issue an order of noncompliance as provided in this section.

(2) An order of noncompliance may be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement or report as required by this chapter or that a statement or report filed by a person does not conform to law; or

(b) it is determined that a statement or report filed with the commissioner does not conform to the requirements of this chapter or that a person has failed to file a statement or report required by law.

(3) If an order of noncompliance is issued during a campaign period or within 60 days after an election, a candidate or political committee shall submit the necessary information within 5 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(4) If an order of noncompliance is issued during any period other than that described in subsection (3), a candidate or political committee shall submit the necessary information within 10 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(5) The procedure described in this section regarding the provision of notice and issuance of orders of noncompliance is not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter."

Section 11. Section 13-37-124, MCA, is amended to read:

"13-37-124. Consultation and cooperation with county attorney. (1) Whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter, ~~he~~ the commissioner shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after ~~he receives~~ receiving notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may, at any time prior to the expiration of the 30-day time period specified in subsection (1), waive ~~his~~ the right to prosecute, and ~~thereby authorize~~ the waiver authorizes the commissioner to initiate the appropriate civil or criminal action.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution ~~shall~~ must be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the commissioner, except those paid to or imposed by a justice's court, ~~shall~~ must be deposited in the state general fund."

Section 12. Section 13-37-125, MCA, is amended to read:

"13-37-125. Powers of county attorney to investigate. (1) Nothing in ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter prevents a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter that are held by a political committee or candidate involved in an election to be held within the county. However, the inspections must be conducted during reasonable office hours.

(2) A county attorney may:

(a) administer oaths and affirmations;

(b) subpoena witnesses and compel their attendance;

(c) take evidence; and

(d) require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 13. Section 13-37-126, MCA, is amended to read:

"**13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed on the official ballot for an election if the candidate or a ~~political~~ treasurer for a candidate fails to file any statement or report as required by this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's name should not be printed on the official ballot. The commissioner shall provide this notification by the ballot certification deadline provided in 13-10-208 for primary elections and by no later than 7 days before the ballot certification deadline provided in 13-12-201 for general elections."

Section 14. Section 13-37-127, MCA, is amended to read:

"**13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election ~~shall~~ may not be granted to any candidate until ~~he~~ the candidate or ~~his political~~ the candidate's treasurer has filed the reports and statements that must be filed pursuant to the provisions of this chapter. ~~No~~ A candidate for an elective office may not assume the powers and duties of that office until ~~he~~ the candidate has received a certificate of election as provided by law. A certificate of election ~~shall~~ may only be issued by the public official responsible for issuing a certificate or commission of election.

(2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the public official responsible for issuing a certificate of nomination or election that a candidate or

~~his~~ the candidate's treasurer has complied with the provisions of this chapter as described in subsection (1) and that a certificate of nomination or election may be issued."

Section 15. Section 13-37-128, MCA, is amended to read:

"13-37-128. Cause of action created. (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of 13-35-225, 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contribution or expenditure, whichever is greater."

Section 16. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of ~~$500~~ $200 or more if received between the 10th day before the election and the day of the election;

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which ~~funds are received or expended~~ the text of the proposed measure is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue ~~subject to a referendum~~ is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of $500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving a contribution of $100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds $500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are ~~not primary political committees but are~~ incidental political committees shall report their politically related activities in accordance with this chapter.

(7) All reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

Section 17. Section 13-37-228, MCA, is amended to read:

"**13-37-228. Time periods covered by reports.** Reports filed under 13-37-225 and 13-37-226 ~~shall~~ must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report ~~shall~~ must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to subsections (1) through (5) of 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by approval of the form of the petition or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports ~~shall~~ must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports ~~shall~~ must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which ~~he or it~~ the candidate or political committee participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

NEW SECTION. **Section 18. Repealer.** Section 13-35-234, MCA, is repealed.

- END -

SB 148 SPONSOR: Tester, Jon SHORT TITLE: Revise laws governing access to information
REFERRED ON: 01/03/2001 HEARD ON: 01/09/2001
EXECUTIVE ACTION: 01/13/2001 -Bill Passed as Amended -- VOTE: 8 - 0
FINAL DISPOSITION: 03/20/2001 Chapter Number Assigned

SB 183 SPONSOR: Cobb, John SHORT TITLE: Revise campaign contributions by candidate
REFERRED ON: 01/04/2001 HEARD ON: 01/16/2001
TABLED ON: 01/19/2001
FINAL DISPOSITION: 02/23/2001 (S) Missed Deadline for General Bill Transmittal

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SB 184 SPONSOR: Cobb, John SHORT TITLE: Expand interagency coordinating council for prevention programs memb
REFERRED ON: 01/04/2001 HEARD ON: 01/16/2001
EXECUTIVE ACTION: 01/17/2001 -Bill Passed -- VOTE: 8 - 0
FINAL DISPOSITION: 04/06/2001 Chapter Number Assigned

SB 185 SPONSOR: Cobb, John SHORT TITLE: Revise campaign finance and reporting law
REFERRED ON: 01/04/2001 HEARD ON: 01/17/2001
EXECUTIVE ACTION: 01/20/2001 -Bill Passed -- VOTE: 8 - 0
FINAL DISPOSITION: 04/28/2001 Chapter Number Assigned

SB 205 SPONSOR: Cobb, John SHORT TITLE: Revise ethics laws
REFERRED ON: 01/08/2001 HEARD ON: 01/17/2001
EXECUTIVE ACTION: 01/20/2001 -Bill Passed as Amended -- VOTE: 8 - 0
FINAL DISPOSITION: 03/23/2001 Chapter Number Assigned

SB 227 SPONSOR: Wells, Jack SHORT TITLE: Date extended for purchase of military service for less than full cost in P
REFERRED ON: 01/10/2001 HEARD ON: 01/18/2001
TABLED ON: 01/19/2001
FINAL DISPOSITION: 02/23/2001 (S) Missed Deadline for General Bill Transmittal

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on January 17, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 185, SB 205, SB 235, 1/10/2001
Executive Action: SB 184, SB 49,SB 235

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SB 235

Sponsor: **SEN. VICKI COCCHIARELLA, SD 32, Missoula**

Proponents: **Tom Schneider, Montana Public Employees Association**
Kelly Jenkins, General Counsel for Public Employees Retirement Board
Tom Bilodeau, Montana Education Association

Jerry Williams, Montana Police Protective Association, urged support for this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. HARGROVE asked **Tom Schneider** why the information was put in if the actuary was thinking differently and planned on it not being there? **Mr. Schneider** responded that he did not understand why that happened and that the person responsible was not working for the retirement system any longer.

Closing by Sponsor: SEN. VICKI COCCHIARELLA closed SB 235. She urged the committee to look at the fiscal note and reiterated this bill was a fairness issue.

HEARING ON SB 185

Sponsor: SEN. JOHN COBB, SD 25, Augusta

Proponents: Linda Vaughey, Commissioner of Political Practices

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, Augusta, opened SB 185 **EXHIBIT(3)** by saying this bill revises laws governing election campaign finances.

Proponents' Testimony: Linda Vaughey, Commissioner of Political Practices, commented on the amendment in Section 10 which would increase the amount of time that was allowed to inspect reports from ten days to twenty days. She said with only allowing ten days to inspect the reports, the small staff of four had to work a lot of overtime which affected their budget. She also expressed concern about accuracy if they were rushed. She stated Section 16 of the bill amends the $500 to $200 on the form C7 that was required to be filed. She said, presently, a state district candidate was required to submit that form to them within 48 hours of receiving a contribution of more than $100. This section of the bill was a clean-up of language addition.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. EVE FRANKLIN asked **Jim Shire, legal services,** what kind of change in procedure they might have if a candidate is found to be in non-compliance of some rule? **Mr. Shire** responded that the purpose of including this provision was to avoid potential argument that someone might make saying you can't file a civil action against failing to file reports because they didn't go through the procedure outlined in this bill. This bill gives the Commissioner a little more flexibility to deal with a violator depending on the circumstance.

SEN. KEN TOOLE asked who actually decides to move ahead with civil action? **Jim Shire** said the procedure that is outlined in the statute presently is when the commissioner gets a complaint that someone has violated the statute in their jurisdiction, she would conduct an investigation. If she would conclude there was sufficient evidence to go forward, the county attorney would have 30 days to look at it and decide whether to initiate a prosecution, either civil or criminal. The process would be the same for either criminal or civil charges.

SEN. JOHN BOHLINGER told **Jim Shire** he had a hard time understanding why it was suggested to repeal Section 18, which would allow for a political criminal liable. **SEN. BOHLINGER** asked if there might be some use for that at a future date? **Mr. Shire** responded that was a policy decision the committee would have to make. The purpose of the suggested change by the commissioner was based on past experience. There had been many complaints filed at the office alleging violation of the statute and it was proven difficult to proceed with prosecution, he said.

SEN. JIM ELLIOTT told **Commissioner Vaughey** the language in section two reflects the prohibition of electioneering the entrances of a polling place from 200 feet to 100 feet and asked if someone was stationed directly outside the entrance to the polling booth collecting signatures for a petition that would perhaps reflect negatively upon one of the candidates in the election, would they be stopped? **Ms. Vaughey** responded in her estimation, the only way that particular petitioning could be stopped would be the candidate would have to complain; the decision would then have to be made whether her office would call the individual and ask them to cease or if the matter would be turned over to the election administrator that was supervising the polling place. She expressed she would need to look into that further.

Closing by Sponsor: **SEN. JOHN COBB, SD 25,** closed on SB 185.

DATE 1/17/01

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 185, SB 205, SB 235

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
LINDA VAUGHEY	4-4622	COMM PL. PRACT.	185 205	✓	
DOLCY HUBBERT	4-7416	COMM POL PRACT	185-205	✓	
Roberta Cross Grans	439-6986	Common Cause	185 205	✓ ✓	
JACK HOLSTROM	442-5209	MACO	205	✓	
JIM OBERHOFER	443-7811	SELF	235	✓	
KELLY JENKIN	444-3714	FISH BOARD	235	✓	
Tom Schneider	442-4600	MPEA	235	✓	
Steven Ertelt	443-0827	MT Right to Life	185		
BERT OBERT	444-3916	DOJ/Highway Patrol	235	✓	
MARK TAYLOR	443-6820	AMHP	235	✓	
TOM BILODEAU	442-4250	MEA-MFT	235	✓	
Pat Clinch	449-2823	MT FireFighters	235	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on January 19, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 112, 1/20/2001
Executive Action: SB227, SB228, SB185, SB205,SB183,SB123, SB51,

HEARING ON HB 112

Sponsor: **REPRESENTATIVE JOHN BRUEGGEMAN, HD 74, Polson**

Proponents: **Dal Smilie, Department of Administration,**
Lynn Keller, Sec. of State Office,
Pam Bucy, Department of Justice,
Ann Hedges, Montana Environmental Information Center

Opponents: **None**

bill because of more people taking out from this fund than are contributing money to the account.

SEN. BOHLINGER said after twenty years of employment, the problems can be wearing on the individual. He, therefore, supports this bill.

SEN. DON HARGROVE stated because of the risk and levels of physical activity required, the positions of public safety offices such as highway patrol and police need to be younger. This bill is a retention and recruitment tool. If we can keep people in the position longer, it decreases the costs for training.

Vote: Motion **SB 228 carried unanimously.**

EXECUTIVE ACTION ON SB 185

Motion: **SEN. BOHLINGER** moved that **SB 185 DO PASS.**

SEN. TOOLE said this bill aids with criminality versus civil law

SEN. HARGROVE said this bill would help with criminality versus civil law and it was a good idea.

SEN. BOHLINGER said he is concerned about the repeal of Section 18.

Vote: Motion **SB 185 carried unanimously.**

EXECUTIVE ACTION ON SB 205

Motion: **SEN. FRANKLIN** moved that **AMENDMENTSB020502.adn BE ADOPTED. EXHIBIT(4)**

David Niss said the intent of this amendment is to deal only wit the situation which an ethics complaint is made against a county attorney. The county attorney is a member of the local review panel and would be active on a complaint involving himself. There are also some counties where the panels don't exist.

Vote: Motion **AMENDMENT SB020502.ADN carried unanimously.**

MONTANA SENATE
2001 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE 1-19-01

NAME	PRESENT	ABSENT	EXCUSED
SEN. DON HARGROVE, CHAIRMAN	✓		
SEN. JOHN BOHLINGER, VICE CHAIRMAN	✓		
SEN. ED BUTCHER	✓		
SEN. PETE EKEGREN	✓		
SEN. JIM ELLIOTT	✓		
SEN. EVE FRANKLIN	✓		
SEN. FRED THOMAS			✓
SEN. KEN TOOLE	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **State Administration** report that **Senate Bill 185** (first reading copy - white) **do pass.**

Signed: Don Hargrove
Senator Don Hargrove, Chair

- END -

Committee Vote:
Yes 8, No 0.

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SB 131 SPONSOR: Taylor, Mike SHORT TITLE: Revise information technology laws - chief information officer
BY REQUEST OF: Legislative Finance Committee
REFERRED ON: 03/03/2001 HEARD ON: 03/07/2001
EXECUTIVE ACTION: 03/08/2001 -Bill Concurred -- VOTE: 16 - 2
FINAL DISPOSITION: 04/21/2001 Chapter Number Assigned

SB 148 SPONSOR: Tester, Jon SHORT TITLE: Revise laws governing access to information
REFERRED ON: 02/01/2001 HEARD ON: 02/06/2001
EXECUTIVE ACTION: 02/06/2001 -Bill Concurred -- VOTE: 17 - 1
FINAL DISPOSITION: 03/20/2001 Chapter Number Assigned

SB 184 SPONSOR: Cobb, John SHORT TITLE: Expand interagency coordinating council for prevention programs membe
REFERRED ON: 02/01/2001 HEARD ON: 03/01/2001
EXECUTIVE ACTION: 03/08/2001 -Bill Concurred as Amended -- VOTE: 18 - 0
FINAL DISPOSITION: 04/06/2001 Chapter Number Assigned

SB 185 SPONSOR: Cobb, John SHORT TITLE: Revise campaign finance and reporting law
REFERRED ON: 02/01/2001 HEARD ON: 03/01/2001
EXECUTIVE ACTION: 03/22/2001 -Bill Concurred as Amended -- VOTE: 15 - 1
FINAL DISPOSITION: 04/28/2001 Chapter Number Assigned

SB 205 SPONSOR: Cobb, John SHORT TITLE: Revise ethics laws
REFERRED ON: 02/01/2001 HEARD ON: 03/01/2001
EXECUTIVE ACTION: 03/02/2001 -Bill Concurred -- VOTE: 18 - 0
FINAL DISPOSITION: 03/23/2001 Chapter Number Assigned

SB 210 SPONSOR: Waterman, Mignon SHORT TITLE: Revise retirement for county hospital and rest home employees
REFERRED ON: 03/12/2001 HEARD ON: 03/27/2001
EXECUTIVE ACTION: 03/27/2001 -Bill Concurred -- VOTE: 16 - 2
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned

SB 228 SPONSOR: Ekegren, Pete SHORT TITLE: Revise highway patrol retirement eligibility
REFERRED ON: 02/01/2001 HEARD ON: 03/02/2001

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 1, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 184, SB 185, SB 205, 2/22/2001
Executive Action: HB 122

HEARING ON SB 185

Sponsor: **SENATOR JOHN COBB, SD 25, AUGUSTA**

Proponents: **Linda Vaughey, Commission Of Political Practices**
Dulcy Hubbert, Commission Of Political Practices
Darrell Holzer, AFL-CIO
Matthew Leow, Montana Public Interest Research Group
Jim Shire, Attorney Generals Office

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 15.8}

SENATOR JOHN COBB, SD 25, AUGUSTA submitted and discussed written testimony. **EXHIBIT(1)**

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 30.9}

Linda Vaughey, Commission Of Political Practices said there are two sections of the bill she would like to address. The first is the amendments to section 10, page 9 which extends the time for report checking from 10 to 20 days. Is it ten working days? She feels they are doing as good a job as they could be doing because of the 10 day turn around. The other issue is the amendments in section 16, page 12. Currently they are required to provide forms to candidates in committees showing the contributions received. A certain amount triggers filing a report within a specified time. When addendums are attached to the instruction it tends to create confusion for candidates and treasurers.

Darrell Holzer, AFL-CIO said he deals with campaign reports on an ongoing basis and anything that clarifies and makes it more understandable and removes opportunity for errors is appreciated.

Matthew Leow, Montana Public Interest Research Group said as the law exists now there is a lot of vague language and questions of enforce ability and feels passing the bill will make the laws that exist more useful to the commissioner.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 6.4}

REPRESENTATIVE BROWN asked, if term limits contributed to the huge increase of reports this year. **Linda Vaughey** replied one would think that was the case, but in fact they anticipated more filings than there were. She said their budget committee prepared a comparison of the last 10 years of district and state-wide candidates. In 1992 there were 40 state-wide candidates and 283 district candidates. This past elections cycle there were 41 state-wide candidates and 375 district candidates, which is an increase of 19. In 1994 there were 352 district candidates. **REPRESENTATIVE BROWN** then asked if they increase the time from 10 to 20 days, what amount would the department save. **Linda Vaughey** said that would be a difficult number to come up with. **REPRESENTATIVE BROWN** and **Linda Vaughey** then discussed the process of the reports being filled out and submitted.

REPRESENTATIVE BARRETT clarified that if the bill passes they will have the ability to fine candidates and require the missing report. **Linda Vaughey** said they already have the ability to impose a civil fine of $500.00 or 3 times the unreported amount, however they try to facilitate compliance rather than issuing fines. In her 2 years as Commissioner her office has imposed a fine is when e a candidate refuses to complete the required forms in a given time. **REPRESENTATIVE BARRETT** asked if a candidate can pay the fine and not give the information. **Linda Vaughey** replied they are required to come into compliance with the statutes and the few times it has happened, the reports were eventually filed.

REPRESENTATIVE HEDGES asked what the significance is of the 20 day limit on the reports that have to be filed. Why could it not be 45 days. He then asked if it is not filed in time will the candidates name be taken off the ballot. **Jim Shire** said the commissioner determined that 20 days would be sufficient. **Linda Vaughey** clarified they have to have the reports by a certain time because they have to be certified as compliant before the candidates name can appear on the general election ballots. If the report is not received the candidate will run the risk of their name not being on the ballot, but only after about 10 notifications from her office.

REPRESENTATIVE OLSON asked when is a public officer not on the job or at their place of employment. **Jim Shire** replied that some will argue public officers and elected officers are on the job 24 hour

a day, however if you are home on the weekend even if you are a public officer you are not going to get a violation. **REPRESENTATIVE OLSON** asked if a legislature is prohibited under this bill to send out a letter addressing a particular ballot issue on legislative letterhead. **Jim Shire** replied if it were done on the job or at the place of employment it would be okay.

REPRESENTATIVE SCHRUMPF asked if there were a lot of violations this year due to new candidates and so many reports needing to be filed. **Linda Vaughey** said she did not think there were anymore this year than last.

CHAIRMAN WALTERS asked if there was a need for the original signed documents if it was faxed to the commission. **Linda Vaughey** said they ask for a signed original to follow the faxed copy. The reason is because sometimes the fax is not clear and difficult to read, so having the original is helpful. **CHAIRMAN WALTERS** then asked if a candidate if fined $500.00 and does not have the $500.00 in their account are they personally responsible for that fine. **Linda Vaughey** said they will negotiate a settlement, but they seldom get to this kind of situation.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 23.7}

REPRESENTATIVE COBB stated when the committee takes action on the bill to let him know and he will be there for any other questions the committee may have due to the complexity of the bill.

HEARING ON SB 205

Sponsor: **SENATOR JOHN COBB, SD 25, AUGUSTA**

Proponents: **Linda Vaughey, Commission Of Political Practices**
Dulcy Hubbert, Commission Of Political Practices
Jack Halston, Montan Association of Counties
Matthew Leow, Montana Public Interest Research Group

Opponents: None

Exhibit: 1 Cobb

NOTES RE SENATE BILL 185

CAMPAIGN FINANCE AND REPORTING STATUTES

Amendments to 13-1-101 (Section 1 of the bill)

Delete unnecessary language in subsections (6)(b)(iii) and (10)(b)(iv).

Subsections (6)(b)(iii) and (10)(b)(iv) exclude from the respective definitions of "contribution" and "expenditure" the cost of any communication by a membership organization or corporation to its members, stockholders, or employees, "as long as the organization is not a primary political committee." An amendment deletes this language. There is no definition of the term "primary political committee," so it has never been clear precisely which organizations are not entitled to this exemption. The purpose of the exemption is to permit corporations and organizations to communicate political messages to their membership, stockholders, or employees without having to worry about reporting the costs of such communications as contributions or expenditures. For example, the Montana Power Company or the Wilderness Society can send newsletters to their stockholders, employees, or members advocating political positions and no contributions or expenditures have to be reported (as long as the newsletters are not distributed to non-members). The cost of communications between members of political committees should similarly not be construed as contributions or expenditures.

****

Amend subsection (16) to clarify the definition of "issue" or "ballot issue".

This change ("issue" to "ballot issue") will eliminate confusion and make the language in the definition consistent throughout.

Amendment to 13-35-211 (Section 2 of the bill)

Amend subsection (1) to make the statute more likely to survive a constitutional challenge.

This statute prohibits "electioneering," or political campaigning regarding a candidate or issue to be voted upon at an election within 200 feet of a polling place. Changing the distance to 100 feet from the entrances to a polling place, will make the statute more likely to survive a constitutional challenge. In Burson v. Freeman, 504 U.S. 191 (1992), the United States Supreme Court upheld a Tennessee statute that prohibited campaigning within 100 feet of the entrance to a polling place. The Court, however, noted that at some point beyond a 100 foot campaign-free zone restriction on political activities could become an unconstitutional burden on First Amendment rights.

Amendments to 13-35-226 (Section 3 of the bill)

Amend statute with new proposed subsection (7), which provides definitions of "public employee" and "public officer."

Subsection (3) of the statute currently prohibits public employees from soliciting support for or opposition to candidates, ballot issues, and political committees while on the job or at the place of employment. Unfortunately, there is no definition of the term "public employee." This proposed change therefore fills a gap in the current law. (See discussion regarding proposed amendment of existing subsection (3), below).

****

Amend existing subsection (2) (renumbered proposed subsection (4)) to make an attempt to violate the statute a violation.

Under the current language in subsection (2), a person who attempts to coerce, command, or require a public employee to support or oppose a ballot issue, candidate, or political committee has violated the statute. This proposed change makes it clear that not only an attempt, but also a successful attempt, is a violation.

****

Add language to clarify that the prohibitions of existing subsection (3) apply to public officers as well as public employees.

In the May 11, 2000 decision In the Matter of the Complaint Against Dennis Paxinos, Yellowstone County Attorney, the Commissioner noted that local government officers such as a county attorney are not subject to the prohibitions of 13-35-226, because they are not "public employees." New subsection (3), which utilizes the existing language in the last sentence of subsection (1), and the addition of the phrase "public officer" in renumbered subsection (5), make the prohibitions of the statute uniformly applicable to public employees and public officers, who are defined in proposed new subsection (7) in terms very similar to proposed amended definitions in the ethics laws, specifically 2-2-102.

Amend existing subsection (4), renumbered subsection (6), to change this from a criminal violation to a civil violation.

This amendment decriminalizes this statute, making a violation subject to the civil penalties authorized by 13-37-128. That statute authorizes a civil penalty of up to $500 or three times the amount of the unlawful contribution or expenditure, whichever is greater. A civil action requires a lesser standard of proof than a criminal action (preponderance of the evidence as opposed to proof beyond a reasonable doubt). These factors were the genesis of this amendment.

Amendments to 13-1-101, 13-37-111, 13-37-112, 13-37-113, 13-37-114, 13-37-117, 13-37-118, 13-37-124, and 13-37-125 (Sections 1, 4, 5, 6, 7, 8, 9, 11, and 12 of the bill)

Title 13, chapter 36 provides a method by which one can contest the right of any person to any nomination or election to public office. District courts have jurisdiction over a contest action. A careful review of chapter 36 reveals that the Commissioner has no responsibilities under this chapter. The amendments delete references to chapter 36 in the statutes outlining the powers and responsibilities of the Commissioner.

Amendments to 13-35-211, 13-37-112, 13-37-124, 13-37-127, and 13-37-228 (Sections 2, 5, 11, 14, and 17 of the bill)

These amendments make the language gender neutral.

Amendments to 13-37-121 (Section 10 of the bill)

Amend subsection (1) to provide more time for the Commissioner to review statements and reports and to provide notice.

Past experience has revealed that additional time for the Commissioner to fulfill this duty would be very helpful. The amendments provide that the time for inspection of statements and reports be lengthened from 10 to 20 days. Language has been added that excludes Saturdays, Sundays, and holidays from the computation of time. Language clarifying how notice may be provided is also proposed, to provide the Commissioner with flexibility.

Add proposed subsection (5) regarding other administrative or judicial actions.

The addition of the language in subsection (5) makes it clear that notice and the issuance of an order of noncompliance, as provided in subsections (1) through (4), are not prerequisites to any other administrative or judicial action that may appropriately be pursued by the Commissioner to address a failure to file the required statements or forms.

Amendments to 13-37-126 and 13-37-127 (Sections 13 and 14 of the bill)

Subsection (1) of both of these statutes contains a reference to "political treasurer." The phrase is not defined and does not appear anywhere else in title 13. The word "political" in each phrase is deleted, because it is an unnecessary modifier of the term "treasurer."

Amendment to 13-37-128 (Section 15 of the bill)

The addition of language refers to a violation of 13-35-226, to authorize a civil action, since the amendment of that statute changes it from a criminal to a civil statute.

Amendments to 13-37-226 (Section 16 of the bill)

Amend subsection (1)(b) by changing "$500" to "$200."

Subsection (1)(b) requires candidates for a state office filled by a statewide vote in Montana to file a report within 24 hours after receiving a contribution of $500 or more. Initiative 118, approved in 1994, established revised limitations on contributions that may be made to candidates for statewide offices. Up to $400 may be contributed to candidates filed jointly for the offices of governor and lieutenant governor. Up to $200 may be contributed to candidates for other statewide offices, so the $200 figure is inserted in place of $500 in 13-37-226(1)(b).

Amend subsection (2)(a) to clarify reporting requirements for ballot issue committees.

The amendment clarifies when political committees organized to support or oppose statewide ballot issues must begin filing reports. Reports must be filed beginning with the calendar quarter in which the text of a proposed measure is submitted for approval according to Montana law. This establishes a clear triggering point for filing of these reports.

Amendment to 13-37-228 (Section 17 of the bill)

The new language in subsection (1) requires the reporting of all contributions received and expenditures made in support of or opposition to a ballot issue prior to the time an "issue" becomes a "ballot issue" by approval by the Secretary of State of the form of petition or referral (see 13-1-101(16)). Such contributions and expenditures would have to be reported even if an issue subsequently fails to qualify for the ballot. This change ensures full disclosure of amounts received and expended for the purpose of either qualifying or preventing qualification of a ballot issue for the ballot.

Repeal of 13-35-234 (Section 18 of the bill)

This statute prohibits "political criminal libel." Past experience in the Commissioner's office has shown that this statute is exceedingly difficult to enforce, given the requirement of proof that a person committed the prohibited acts knowingly or with reckless disregard. Moreover, since this is a criminal statute all elements of the offense must be proven beyond a reasonable doubt. Similar conduct is prohibited by 13-37-131, a civil statute (with a lesser standard of proof of preponderance of the evidence), and a violation of that statute subjects a person to a civil penalty of up to $1,000.

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER
HOUSE STATE ADMINISTARTION COMMITTEE

DATE 3/1/01

BILL NO. SB 185 SPONSOR(S)

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	LINDA VAUGHEY	1205 8. AVE	CoPP
(P) O I	Dulay Hubbard	" "	" "
(P) O I	DARRELL HOLZER	HELENA	AFL-CIO
(P) O I	Matthew Leon	327 N. Hobart	MontPIRG
P O I			
P O I			
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 22, 2001 at 9:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: Rep. Larry Jent (D)
Rep. Michelle Lee (D)

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 362, 3/14/2001
Executive Action: SB 123, SB 185, SB 51, SB 114, SB 362, SB 381

is already covered in the procedures. **Linda Vaughey** replied that with this bill, there would be a definition of public officer. There is currently an enforcement provision within the Code of Ethics and they will be revisiting those rules to provide clarity.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 28.6}

SENATOR TESTER stated everything each person does individually impacts everybody else. If there is a Representative or Senator who acts inappropriately, it will reflect back on them. He feels everyone likes to keep their images as clean as possible.

EXECUTIVE ACTION ON SB 185

{Tape : 1; Side : A; Approx. Time Counter : 30}

Motion: **REP. BROWN** moved that **SB 185 BE CONCURRED IN AS AMENDED.**

Discussion:

Sheri Heffelfiner submitted and discussed a summary and analysis she prepared of Section 3 of SB 185 and proposed amendments. EXHIBIT(1)

Motion: **REP. DELL** moved to **STRIP** his **AMENDED** (SB018501.ASH) to **SB 185.** **Vote**: Motion **carried 14-1 with Raser voting no.**

Motion: **REP. BROWN** moved that **SB 185 BE CONCURRED IN AS AMENDED.**

Motion: **REP. OLSON** moved that **SB 185 BE AMENDED.**

Discussion:

REPRESENTATIVE BROWN said this has happened one time in six year, and does not feel that is a reason to micro manage. She feels they need to trust the people who are in charge.

Motion: **REP. OLSON** moved that **SB 185 BE AMENDED.** **Vote**: Motion **carried 14-2 with Raser and Smith voting no.**

Motion: **REP. RIPLEY** moved that **SB 185 BE CONCURRED IN AS AMENDED.**

(SB018505.ASH). **Motion carried 16-0.**

Motion: **REP. DELL** moved that **SB 185 BE CONCURRED IN AS AMENDED.**

Discussion:

REPRESENTATIVE RASER asked if the original intent of the bill to include legislatures or not. **REPRESENTATIVE OLSON** replied, he was not sure.

REPRESENTATIVE DELL said he is going to vote no on the bill. He does not feel administrative rule making needs to be in place about their behavior.

REPRESENTATIVE BROWN told the committee she is voting for the bill.

REPRESENTATIVE LENHART felt the bill may not be a perfect bill, but it needs to be passed out of the committee.

Motion: **REP. DELL** moved that **SB 185 BE CONCURRED IN AS AMENDED.**
Vote: Motion **carried 15-1 with Dell voting no.**

EXECUTIVE ACTION ON SB 51

{Tape : 2; Side : A; Approx. Time Counter : 6.2}

Motion: **REP. OLSON** moved that **SB 51 BE CONCURRED IN.**

Motion: **REP. OLSON** moved that **SB 51 BE AMENDED.** EXHIBIT(2)

Discussion:

REPRESENTATIVE OLSON stated the main purpose of this amendment was to some concerns he had that would effect local government. It changes "have to" except it, to "may" except it.

REPRESENTATIVE DELL said he agrees with the amendment and with their option to say yes or no.

REPRESENTATIVE RIPLEY commented, the only way he can support the bill is if the amendment is passed.

EXHIBIT 1
DATE 3/22/01
HB SB185

Council Senate Members
TOM BECK - CHAIRMAN
B.F. "CHRIS" CHRISTIAENS
VICKI COCCHIARELLA
MACK COLE
STEVE DOHERTY
MIKE TAYLOR

Council House Members
KIM GILLAN - VICE CHAIRMAN
GEORGE GOLIE
DAN McGEE
DOUG MOOD
BRAD NEWMAN
PAUL SLITER

Executive Director
LOIS MENZIES

Director
DAVID D. BOHYER

Library
BETH FURBUSH
BENTLEY UTGAARD

Research Analysts
CONNIE ERICKSON
SUSAN FOX
SHERI S. HEFFELFINGER
GORDON HIGGINS
LEANNE KURTZ
STEPHEN B. MALY
JEFF MARTIN

Secretaries
LOIS O'CONNOR
JO ANN JONES

Montana Legislative Services Division

Office of Research and Policy Analysis

PO BOX 201706
Helena, Montana 59620-1706
(406) 444-3064
FAX (406) 444-3036

March 20, 2001

TO: Rep. Michelle Lee
Members of the House State Administration Committee

FROM: Sheri S. Heffelfinger, Legislative Research Analyst

RE: Summary and analysis of Section 3 of SB 185 and proposed amendments

This memorandum is in response to Rep. Lee's request for a staff analysis of Section 3 of SB 185 for the House State Administration Committee.

Where SB 185 is now

When the committee suspended discussion on SB 185, it had passed three amendments:

- the Raser amendment, SB018503.ash;
- the Brown amendment, SB018502.ash; and
- the Dell amendment, SB018501.ash.

The motion pending committee action and open for discussion is DO CONCUR AS AMENDED.

Background

Unlawful campaign practices versus ethics code violations: Section 3 of SB 185 amends section 13-35-226, MCA. This statute is one of a group of statutes in Title 13, chapter 35, part 2, that deal with unlawful campaign practices. Campaign practices fall under the jurisdiction of the Commissioner of Political Practices. Section 13-35-226, MCA, is not

part of the ethics code. The ethics code is codified in Title 2, chapter 2, of the MCA. Because the ethics code also covers public officials and public employees, there is overlap and some ambiguity in how the Commissioner of Political Practices should apply section 13-35-226, MCA. Section 3 of SB 185 was drafted by request of the Commissioner to add clarity and definition to the current law.

Current law: Section 13-35-226, MCA, governs the conduct of ***employers and employees*** on the job and in the work place.

The two subsections of the current law that create confusion and ambiguity are as follows:

- subsection (3) [page 6, line 1 of SB 185], which states: "This section applies to corporations, individuals, and ***public officers and employees***"; and

- subsection (5) [page 6, lines 5 through 8], which reads: "However, ***subject to 2-2-121***, this section is not intended to restrict the right of a ***public employee*** to express personal political views." [emphasis added]

The key reason for the confusion is that "public officer" and "public employee" are defined in Title 2, but are not defined in Title 13.

Rep. Masolo's amendments, SB018504.ash

Moved by Rep. Masolo as the "e-mail" amendments, SB018504.ash would strike the inserted reference to "public officer" on page 6, line 5. This amendment originated from a concern that public officers, such as the Attorney General, could be construed to be "on the job" 24-hours a day and should, therefore, not be included under the language of subsection (5) on page 6. Confusion about this conceptual amendment was the result of staff not having a clear understanding of whether the amendment was limited to line 5, or whether the intent was to remove "public officer" on page 6, line 1, as well.

Staff has proceeded to draft the Masolo amendment, SB018504.ash, and has limited the amendment to page 6, line 5.

Staff technical note: Because page 6, line 1, which is current law, states that the entire section applies to "public officers", staff prepared SB018505.ash in case the committee decides to strike that current law language as well.

Rep. Dell's amendments, SB018501.ash

Prepared by request of Rep. Dell, SB018501.ash simply provides technical clarification to the definitions of "public officer" and "public employee". The amendments do not incorporate legislators because the Title 2 definition of "public officer" does not include legislators. (Legislators are covered by the Title 2 provisions by direct mention.)

Staff technical note: Because discussion of the Dell amendment encompassed concerns that the definition of "public officer" should include legislators, staff prepared SB018506.ash in case the committee wanted to act in that regard.

Rep. Olson's amendments, SB018507.ash

In the wake of further deliberations, staff was informed that Rep. Olson, other committee members, and the Commissioner of Political Practices had reached a compromise position that would allow the committee move ahead on SB 185 by agreeing to strike all amendments in Section 3 as drafted, but retaining the criminal/civil liability language on page 6, lines 9 through 12.

Summary of amendments

SB018503.ash (Raser)	clarifies admin and judicial action can be taken without order of non-compliance first	adopted
SB018502.ash (Brown)	clarifies that 100-foot prohibition measured from building entrances	adopted
SB018501.ash (Dell)	technical clarification of definitions originally in the bill	adopted
SB018504.ash (Masolo)	strikes "public officer" on page 6, line 5, **only**	
SB018505.ash	strikes page 6, line 1, in it's entirety	
SB018506.ash	revises definition of "public officer" to include legislators *(must strip Dell amendments)*	
SB018507.ash (Olson)	strips all amendments in Sec. 3 as drafted, but keeps criminal/civil liability language on page 6, lines 9 through 12 *(must strip Dell amendments)*	

Amendments to Senate Bill No. 185
3rd Reading Copy

Requested by Representative Holly Raser

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (12:43PM)

1. Page 10, line 1.
Strike: "The"
Insert: "After a complaint is filed with the commissioner pursuant to 13-37-111, the"

- END -

Amendments to Senate Bill No. 185
3rd Reading Copy

Requested by Representative Dee Brown

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (12:43PM)

1. Page 5, line 6.
Strike: "the entrances"
Insert: "any entrance"
Strike: "polling place or"
Following: "building"
Insert: "in which the polling place is located"

- END -

Amendments to Senate Bill No. 185
3rd Reading Copy

Requested by Representative Tom Dell

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (12:43PM)

1. Page 6, line 14.
Strike: line 14 in its entirety
Renumber: subsequent subsections

2. Page 6, line 15 through line 16.
Strike: ":" on line 15 through "(i)" on line 16
Following: the second "state" on line 16
Strike: "; or"
Insert: ", including a school district."

3. Page 6, line 17.
Strike: line 17 in its entirety

4. Page 6, line 20.
Following: ";"
Insert: "or"

5. Page 6, line 21.
Following: "of any"
Insert: "political"
Following: "state"
Strike: "; or"
Insert: ", including a school district."

6. Page 6, line 22.
Strike: line 22 in its entirety

- END -

Amendments to Senate Bill No. 185
3rd Reading Copy

Requested by Representative Gay Ann Masolo

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (12:46PM)

1. Page 6, line 5.
Strike: "public officer or"

- END -

Amendments to Senate Bill No. 185
3rd Reading Copy

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (12:48PM)

1. Page 6, line 1.
Strike: line 1 in its entirety
Renumber: subsequent subsections

- END -

Amendments to Senate Bill No. 185
3rd Reading Copy

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (1:41PM)

1. Page 6, line 14.
Strike: line 14 in its entirety
Renumber: subsequent subsections

2. Page 6, line 15 through line 16.
Strike: ":" on line 15 through "(i)" on line 16
Following: the second "state" on line 16
Strike: "; or"
Insert: ", including a school district."

3. Page 6, line 17.
Strike: line 17 in its entirety

4. Page 6, line 20.
Following: ";"
Insert: "or"

5. Page 6, line 21.
Strike: "of any subdivision of the state; or"
Insert: "."

6. Page 6, line 22.
Strike: line 22 in its entirety

- END -

Amendments to Senate Bill No. 185
3rd Reading Copy

Requested by Representative Alan Olson

For the House State Administration Committee

Prepared by Sheri Heffelfinger
March 19, 2001 (1:39PM)

1. Title, page 1, line 8 through line 9.
Strike: the second "CLARIFYING" on line 8 through "EMPLOYERS;" on line 9

2. Page 5, line 17.
Strike: "-- definitions"

3. Page 6, line 4.
Strike: "An" through "."

4. Page 6, line 5.
Strike: "public officer or"

5. Page 6, line 13 through line 22.
Strike: line 13 through line 22 in their entirety

- END -

HOUSE STANDING COMMITTEE REPORT

March 22, 2001

Mr. Speaker:

We, your committee on **State Administration** recommend that **Senate Bill 185** (third reading copy - blue) **be concurred in as amended.**

Signed: Allan Walters
Representative Allan Walters, Chair

To be carried by Representative Donald Hedges

And, that such amendments read:

1. Title, page 1, line 8 through line 9.
Strike: the second "CLARIFYING" on line 8 through "EMPLOYERS;" on line 9

2. Page 5, line 6.
Strike: "the entrances"
Insert: "any entrance"
Strike: "polling place or"
Following: "building"
Insert: "in which the polling place is located"

3. Page 5, line 17.
Strike: "-- definitions"

4. Page 6, line 1.
Strike: line 1 in its entirety
Renumber: subsequent subsections

5. Page 6, line 4.
Strike: "An" through "."

6. Page 6, line 5.

Committee Vote:
Yes 15, No 1.

651500SC.hdc

Strike: "public officer or"

7. Page 6, line 13 through line 22.
Strike: line 13 through line 22 in their entirety

8. Page 10, line 1.
Strike: "The"
Insert: "After a complaint is filed with the commissioner pursuant to 13-37-111, the"

- END -

HOUSE OF REPRESENTATIVE

ROLL CALL

STATE ADMINISTATION COMMITTEE

DATE 3/22/01

NAME	PRESENT	ABSENT	EXCUSED
REP. ALLAN WALTERS, CHAIRMAN	X		
REP. DEBBY BARRETT, V.C. MAJORITY	X		
REP. TOM DELL, V.C. MINORITY	X		
REP. DOUG MOOD			
REP. FRANK SMITH	X		
REP. DEE BROWN	X		
REP. MICHELLE LEE		X	
REP. LARRY LEHMAN	X		
REP. RALPH LENHART	X		
REP. ALAN OLSON	X		
REP. NORMA BIXBY	X		
REP .RICK RIPLEY	X		
REP. CLARICE SCHRUMF	X		
REP. HOLLY RASER	X		
REP. GAY ANN MASOLO	X		
REP. HAL JACOBSON	X		
REP. DON HEDGES	X		
REP. LARRY JENT		X	

REPRESENTATIVES

ROLL CALL VOTE

STATE ADMINISTRATION COMMITTEE

DATE 3/22/01 Bill NO. SB 185 NUMBER

MOTION: Rep Dell makes motion to do concure as amended.

Name	AYE	NO
REP. DEBBY BARRETT, V.C. MAJORITY	X	
REP. TOM DELL, V. C. MINORITY		X
REP. DOUG MOOD	X-by Proxy	
REP. FRANK SMITH	X-by proxy	
REP. DEE BROWN	X	
REP. MICHELLE LEE	—	
REP. LARRY LEHMAN	X	
REP. RALPH LENHART	X	
REP. ALAN OLSON	X	
REP. NORMA BIXBY	X- by Proxy	
REP. RICK MASOLO	X	
REP. CLARICE SCHRUMF	X	
REP. HOLLY RASER	X	
REP. REP RIPLEY	X	
REP. HAL JACOBSON	X- byProxy	
REP. DON HEDGES	X	
REP. LARRY JENT	—	
REP. ALLAN WALTERS, CHAIRMAN	X	

15 - 1

SENATE BILL NO. 185

INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ELECTIONS AND CAMPAIGN FINANCE; REVISING THE DUTIES OF THE COMMISSIONER OF POLITICAL PRACTICES; REMOVING REFERENCES TO THE COMMISSIONER OF POLITICAL PRACTICES' AUTHORITY TO REGULATE CONTESTS FOR NOMINATION TO PUBLIC OFFICE; REMOVING REFERENCES TO PRIMARY POLITICAL COMMITTEES; CLARIFYING REPORTING REQUIREMENTS FOR BALLOT ISSUES; ~~CLARIFYING THE RESTRICTIONS ON EMPLOYERS;~~ REMOVING CRIMINAL PENALTIES FOR UNLAWFUL CONTRIBUTIONS; CLARIFYING THAT ISSUANCE OF AN ORDER OF NONCOMPLIANCE IS NOT A PREREQUISITE FOR OTHER ACTION; CONFORMING CONTRIBUTION REPORTING REQUIREMENTS TO CURRENT LIMITS; REVISING DISTANCE RESTRICTIONS ON EXIT POLLING; ELIMINATING THE POLITICAL CRIMINAL LIBEL LAW; AMENDING SECTIONS 13-1-101, 13-35-211, 13-35-226, 13-37-111, 13-37-112, 13-37-113, 13-37-114, 13-37-117, 13-37-118, 13-37-121, 13-37-124, 13-37-125, 13-37-126, 13-37-127, 13-37-128, 13-37-226, AND 13-37-228, MCA; AND REPEALING SECTION 13-35-234, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO 2ND RD--2ND HOUSE COPY (TAN) FOR COMPLETE TEXT.

FREE CONFERENCE COMMITTEE

on Senate Bill 185
Report No. 1, April 9, 2001

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 185** (reference copy - salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:

Chair

For the House:

Vice-Chair

Amendment Coordinator

Secretary of Senate

And, recommend that **Senate Bill 185** (reference copy - salmon) be amended as follows:

1. Title, page 1, line 8 through line 9.
Strike: the second "CLARIFYING" on line 8 through "EMPLOYERS;" on line 9

2. Page 5, line 6.
Strike: "the entrances"
Insert: "any entrance"

FCCR #1

ADOPT voice

REJECT

AC SB 185-1

801446FC.srf

SB 185

Strike: "polling place or"
Following: "building"
Insert: "in which the polling place is located"

3. Page 5, line 17.
Strike: "-- definitions"

4. Page 6, line 1.
Strike: line 1 in its entirety
Renumber: subsequent subsections

5. Page 6, line 4.
Strike: "An" through "."

6. Page 6, line 5.
Strike: "public officer or"

7. Page 6, line 13 through line 22.
Strike: line 13 through line 22 in their entirety

8. Page 7, line 26.
Following: "~~37~~"
Insert: "35"

9. Page 7, line 30.
Following: "~~or~~"
Strike: "37"

10. Page 10, line 1.
Strike: "The"
Insert: "After a complaint is filed with the commissioner pursuant to 13-37-111, the"

- END -

AN ACT GENERALLY REVISING THE LAWS GOVERNING ELECTIONS AND CAMPAIGN FINANCE; REVISING THE DUTIES OF THE COMMISSIONER OF POLITICAL PRACTICES; REMOVING REFERENCES TO THE COMMISSIONER OF POLITICAL PRACTICES' AUTHORITY TO REGULATE CONTESTS FOR NOMINATION TO PUBLIC OFFICE; REMOVING REFERENCES TO PRIMARY POLITICAL COMMITTEES; CLARIFYING REPORTING REQUIREMENTS FOR BALLOT ISSUES; REMOVING CRIMINAL PENALTIES FOR UNLAWFUL CONTRIBUTIONS; CLARIFYING THAT ISSUANCE OF AN ORDER OF NONCOMPLIANCE IS NOT A PREREQUISITE FOR OTHER ACTION; CONFORMING CONTRIBUTION REPORTING REQUIREMENTS TO CURRENT LIMITS; REVISING DISTANCE RESTRICTIONS ON EXIT POLLING; ELIMINATING THE POLITICAL CRIMINAL LIBEL LAW; AMENDING SECTIONS 13-1-101, 13-35-211, 13-35-226, 13-37-111, 13-37-112, 13-37-113, 13-37-114, 13-37-117, 13-37-118, 13-37-121, 13-37-124, 13-37-125, 13-37-126, 13-37-127, 13-37-128, 13-37-226, AND 13-37-228, MCA; AND REPEALING SECTION 13-35-234, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"**13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means a qualified elector whose name is on the active list.

(2) "Active list" means a list of active electors maintained by an election administrator pursuant to 13-2-219.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a completed voter registration card submitted to the election administrator and subject to confirmation, as provided in 13-2-207.

(5) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; and

(c) an officeholder who is the subject of a recall election.

(6) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees~~, as long as the organization is not a primary political committee~~; or

(iv) filing fees paid by the candidate.

(7) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(8) "Election administrator" means the county clerk and recorder or the individual designated by

a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(9) "Elector" means an individual qualified and registered to vote under state law.

(10) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (6);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees~~, as long as the organization is not a primary political committee~~.

(11) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(12) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(13) "Inactive elector" means an individual whose name is placed on an inactive list.

(14) "Inactive list" means a list of inactive electors maintained by an election administrator pursuant to 13-2-219.

(15) "Individual" means a human being.

(16) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35~~, 36, or~~ and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes ~~an~~ a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

(17) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (5).

(18) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(19) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(20) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(21) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(22) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(23) "Special election" means an election other than a statutorily scheduled primary or general

election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(24) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

Section 2. Section 13-35-211, MCA, is amended to read:

"**13-35-211. Electioneering -- soliciting information from electors.** (1) ~~No~~ A person may not do any electioneering on election day within any polling place or any building in which an election is being held or within ~~200~~ 100 feet ~~thereof~~ of any entrance to the building in which the polling place is located, which aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

(2) ~~No~~ A person may not buy, sell, give, wear, or display at or about the polls on an election day any badge, button, or other insignia which is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election.

(3) ~~No~~ A person within a polling place or any building in which an election is being held may not solicit from an elector, before or after ~~he~~ the elector has marked ~~his~~ a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue."

Section 3. Section 13-35-226, MCA, is amended to read:

"**13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in paying employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to influence the political opinions or actions of the employees.

(2) It is unlawful for an employer to exhibit in a place where the employer's workers or employees may be working any handbill or placard containing:

(a) any threat, promise, notice, or information that, in case any particular ticket or political party, organization, or candidate is elected~~,~~:

(i) work in the employer's place or establishment will cease, in whole or in part, or will be

continued or increased;

(ii) the employer's place or establishment will be closed; or

(iii) the salaries or wages of the workers or employees will be reduced or increased; or

(b) other threats or promises, express or implied, intended or calculated to influence the political opinions or actions of the employer's workers or employees. ~~This section applies to corporations, individuals, and public officers and employees.~~

~~(2)~~(3) A person may not ~~attempt to~~ coerce, command, or require a public employee to support or oppose any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

~~(3)~~(4) A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at the place of employment. However, subject to 2-2-121, this section ~~is~~ does not ~~intended to~~ restrict the right of a public employee to express personal political views.

~~(4)~~(5) ~~Any~~ A person who violates ~~the provisions of~~ this section ~~shall be fined an amount not to exceed $1,000, be imprisoned in the county jail for a term not to exceed 6 months, or both, for each separate offense~~ is liable in a civil action authorized by 13-27-128, brought by the commissioner or a county attorney pursuant to 13-37-124 and 13-37-125."

Section 4. Section 13-37-111, MCA, is amended to read:

"**13-37-111. Investigative powers and duties.** (1) The commissioner ~~of political practices shall be~~ is responsible for investigating all of the alleged violations of the election laws contained in ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter and ~~shall~~ in conjunction with the county attorneys ~~be~~ is responsible for enforcing these election laws.

(2) The commissioner may investigate all statements filed pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter and shall ~~also~~ investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter. Upon the submission of a written complaint by any individual, the commissioner shall ~~also~~ investigate any other alleged violation of the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title, this chapter, or any rule adopted pursuant ~~thereto~~ chapter 35 of this title or

this chapter.

(3) The commissioner may inspect any records, accounts, or books that must be kept pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter which are held by any political committee or candidate, ~~so~~ as long as ~~such~~ the inspection is made during reasonable office hours.

(4) The commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 5. Section 13-37-112, MCA, is amended to read:

"**13-37-112. Personnel and budget.** (1) The commissioner shall select an appropriate staff to enforce the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title and this chapter, and ~~he~~ may hire and fire all personnel under ~~his~~ the commissioner's supervision.

(2) The commissioner ~~shall be~~ is responsible for preparing, administering, and allocating the budget for ~~his~~ the office."

Section 6. Section 13-37-113, MCA, is amended to read:

"**13-37-113. Hiring of attorneys -- prosecutions.** The commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations of ~~chapters~~ chapter ~~35, 36, or 37~~ 35 of this title or this chapter. Any ~~properly licensed~~ attorney ~~so~~ retained or hired shall exercise the powers of a special attorney general, and ~~he~~ the attorney may prosecute, subject to the control and supervision of the commissioner and the provisions of 13-37-124 and 13-37-125, any criminal or civil action arising out of a violation of any provision of ~~chapters~~ chapter 35~~, 36, or~~ 37 of this title or this chapter. All prosecutions ~~shall~~ must be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The authority to prosecute as prescribed by this section includes the authority to:

(1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter;

(2) attend and give advice to a grand jury when cases involving criminal violations of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter are presented;

(3) draw and file indictments, informations, and criminal complaints;

(4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state or county from persons convicted of violating ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter; and

(5) do any other act necessary to successfully prosecute a violation of any provision of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 7. Section 13-37-114, MCA, is amended to read:

"**13-37-114. Rules.** The commissioner shall ~~promulgate and publish~~ adopt rules to carry out the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title and this chapter ~~and shall promulgate such rules~~ in conformance with the Montana Administrative Procedure Act."

Section 8. Section 13-37-117, MCA, is amended to read:

"**13-37-117. Commissioner to provide forms, manuals, and election laws.** (1) The commissioner shall prescribe forms for reports and other information required to be filed pursuant to chapter 35~~, 36, or 37~~ of this title and this chapter and furnish forms and appropriate information to persons required to file reports and other information.

(2) The commissioner shall prepare and publish a manual prescribing a uniform system for accounts for use by persons required to file reports pursuant to chapter 35~~, 36, or 37~~ of this title or this chapter.

(3) The commissioner shall, at the expense of the state, furnish copies of the election laws relating to penalties, campaign practices, campaign finances, and contested elections to candidates and to any other persons required to file reports or other information pursuant to chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 9. Section 13-37-118, MCA, is amended to read:

"**13-37-118. Information voluntarily supplied.** The commissioner shall accept and file any

information voluntarily supplied that exceeds the requirements of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 10. Section 13-37-121, MCA, is amended to read:

"**13-37-121. Inspection of statements and reports -- issuance of orders of noncompliance.** (1) Each statement and report filed with the commissioner during an election or within 60 days after the election must be inspected within ~~10~~ 20 days after the statement or report is filed. Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not satisfied the provisions of this chapter, the commissioner shall immediately notify the person of the noncompliance. Notification by the commissioner may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the commissioner shall issue an order of noncompliance as provided in this section.

(2) An order of noncompliance may be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement or report as required by this chapter or that a statement or report filed by a person does not conform to law; or

(b) it is determined that a statement or report filed with the commissioner does not conform to the requirements of this chapter or that a person has failed to file a statement or report required by law.

(3) If an order of noncompliance is issued during a campaign period or within 60 days after an election, a candidate or political committee shall submit the necessary information within 5 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(4) If an order of noncompliance is issued during any period other than that described in subsection (3), a candidate or political committee shall submit the necessary information within 10 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(5) After a complaint is filed with the commissioner pursuant to 13-37-111, the procedure

described in this section regarding the provision of notice and issuance of orders of noncompliance is not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter."

Section 11. Section 13-37-124, MCA, is amended to read:

"**13-37-124. Consultation and cooperation with county attorney.** (1) Whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter, ~~he~~ the commissioner shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after ~~he receives~~ receiving notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may, at any time prior to the expiration of the 30-day time period specified in subsection (1), waive ~~his~~ the right to prosecute, and ~~thereby authorize~~ the waiver authorizes the commissioner to initiate the appropriate civil or criminal action.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution ~~shall~~ must be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the commissioner, except those paid to or imposed by a justice's court, ~~shall~~ must be deposited in the state general fund."

Section 12. Section 13-37-125, MCA, is amended to read:

"**13-37-125. Powers of county attorney to investigate.** (1) Nothing in ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter prevents a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter that are held by a political committee or candidate involved in an election to be held within the county. However, the inspections must be conducted during reasonable office hours.

(2) A county attorney may:

(a) administer oaths and affirmations;

(b) subpoena witnesses and compel their attendance;

(c) take evidence; and

(d) require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of ~~chapters~~ chapter 35~~, 36, or 37~~ of this title or this chapter."

Section 13. Section 13-37-126, MCA, is amended to read:

"**13-37-126. Names not to be printed on ballot.** (1) The name of a candidate may not be printed on the official ballot for an election if the candidate or a ~~political~~ treasurer for a candidate fails to file any statement or report as required by this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's name should not be printed on the official ballot. The commissioner shall provide this notification by the ballot certification deadline provided in 13-10-208 for primary elections and by no later than 7 days before the ballot certification deadline provided in 13-12-201 for general elections."

Section 14. Section 13-37-127, MCA, is amended to read:

"**13-37-127. Withholding of certificates of nomination or election.** (1) A certificate of election ~~shall~~ may not be granted to any candidate until ~~he~~ the candidate or ~~his political~~ the candidate's treasurer has filed the reports and statements that must be filed pursuant to the provisions of this chapter. ~~No~~ A candidate for an elective office may not assume the powers and duties of that office until ~~he~~ the candidate has received a certificate of election as provided by law. A certificate of election ~~shall~~ may only be issued by the public official responsible for issuing a certificate or commission of election.

(2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the public official responsible for issuing a certificate of nomination or election that a candidate or ~~his~~ the candidate's treasurer has complied with the provisions of this chapter as described in subsection (1) and that a certificate of nomination or election may be issued."

Section 15. Section 13-37-128, MCA, is amended to read:

"**13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of 13-35-225, 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contribution or expenditure, whichever is greater."

Section 16. Section 13-37-226, MCA, is amended to read:

"**13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of ~~$500~~ $200 or more if received between the 10th day before the election and the day of the election;

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the

candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which ~~funds are received or expended~~ the text of the proposed measure is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue ~~subject to a referendum~~ is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of $500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving a contribution of $100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds $500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures

in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are ~~not primary political committees but are~~ incidental political committees shall report their politically related activities in accordance with this chapter.

(7) All reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

Section 17. Section 13-37-228, MCA, is amended to read:

"**13-37-228. Time periods covered by reports.** Reports filed under 13-37-225 and 13-37-226 ~~shall~~ must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report ~~shall~~ must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to subsections (1) through (5) of 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by approval of the form of the petition or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports ~~shall~~ must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports ~~shall~~ must cover the period of time from the last periodic report to the final

closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which ~~he or it~~ the candidate or political committee participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

Section 18. Repealer. Section 13-35-234, MCA, is repealed.

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